REPORT

OF THE

SELECT COMMITTEE

On the subject of laws making distinction on account of color.

In House—*Jan.* 2, 1847.

MAJORITY REPORT.

Mr. Blake, from the select committee on the subject of laws making distinctions on account of color, made the following report:

The select committee to whom was referred sundry petitions praying for the repeal of an act entitled "an act to regulate black and mulatto persons," passed January 5th, 1804, and all subsequent amendments to said act—and also that portion of the Governor's Message relating to the same subject, respectfully report:—That having given to the subject that consideration and reflection which its importance demands, a majority of your committee are compelled, by their *own consciousness* of what *is right*, to express the opinion, that the repeal of said enactments is demanded by the religion and philanthropy of the age in which we live; by a consistent regard for that great charter of our liberties, which asserts: "that ALL MEN are created equal—that they are endowed by their Creator with certain inalienable rights—that among these are life, *liberty* and the pursuit of happiness—that, to secure these rights, governments are instituted among men, deriving their JUST POWERS *from the consent of the governed;*" and by the same sentiments repeated in the ordinance of Congress, for the government of the Northwest Territory, including the State of Ohio, passed July 13, 1787, which declares: "the inhabitants of said territory shall always be entitled to the benefit of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the Legislature, and of judicial proceedings according to the *course* of the *common law.* And in the just preservation of rights and property it is understood and declared, that no law ought ever to be made, or have force in said territory, that shall in any manner whatever, *interfere with* or *affect private contracts* or *engagements*, bona fide, and without fraud, previously

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formed;" by a decent respect for our State constitution, which we are sworn to support, wherein it is declared, that "ALL MEN *are born equally free and independent*, and have certain *natural, inherent and inalienable rights*—amongst which are the enjoying and defending life and liberty, *acquiring, possessing and protecting property*, and pursuing and *obtaining happiness and safety*." These are the fundamental principles of all republican governments; it was these principles which nerved the arm, encouraged the heart, and animated the hopes of the patriots of the Revolution. By our love of these glorious truths of man's equality, contained in the several instruments named—and, more than all, by a regard for God's Word, which declares, that he "hath made of *one blood all nations of men* for to dwell on all the face of the earth;" a majority of your committee feel constrained to say that said laws, in their opinion, are a disgrace to the State, a foul stain upon the good name and character of our otherwise justly *celebrated Ohio*. With these enactments on our statutes, every citizen is liable to the charge of *hypocrisy*—and a charge, too, which it seems to your committee impossible to exculpate ourselves from; having declared in our bill of rights, that "*all men* are born equally free and independent, and having asserted this to be a "*self evident truth;*" when at the same time we are denying to more than *twenty thousand* of our fellow beings, these very rights, which we have declared to be "*inherent and inalienable;*" and that too, for no crime, for nothing over which this oppressed portion of our race have any control—but merely because the God of nature has, in his all-wise Providence, seen fit to give to them a sable complexion.

These laws are, in the opinion of a majority of your committee, in plain and palpable conflict with the Constitution of this State, of the United States, and of the ordinance of 1787, which the Supreme Court have decided, in the 5th volume Ohio Reports, page 410, are as binding on the State as her constitution, and consequently, every member of the Legislature is sworn to support. In section second, of the fourth article of the Constitution of the United States it is declared, "that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." By the laws of all the New England States, the colored man is allowed all the rights and privileges which are conferred upon the white man; and in the State of New York, the colored man is permitted to enjoy the same rights that are enjoyed by any other citizen, if he owns property to the amount of two hundred and fifty dollars; but if any of these colored citizens of any of those States emigrate to this, by our laws he is required to give bonds for his good behavior and maintenance, and to have a "*fair certificate* from some court within the United States, of his freedom;" and thus that old law maxim, "that every man shall be considered innocent until he is proven guilty," is reversed, and the law presumes the colored man is a slave, unless he can prove himself a freeman! Every white man who employs one of these colored men, in *any way* or *for any purpose*, who has not thus given bond and got a certificate, is liable to a fine not to exceed "one hundred dollars—the one half to the informer, and the other half for the use of

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the poor of the township in which such person may reside—to be recovered by an action of debt, before any court having competent jurisdiction, and moreover be *liable for the maintenance and support*" of such colored person, if he shall ever become unable to support himself. It will readily be perceived, that we require of the colored citizen coming from other States what is required of no other men, from any other section of our country; it must therefore be obvious to the mind of every reflecting man, that the colored citizens of other States, who come here to reside, are not by our laws entitled to the same "*privileges and immunities*" as the citizens of this State, and consequently these laws are in direct conflict with this provision of the Constitution, and therefore void.

In the fourth section of the amendment to the act entitled "an act to regulate black and mulatto persons," passed January 25th, 1807, it is provided, that no black or mulatto person shall be permitted to give testimony in any court in this State, where either party to the same is a white person; so that the white man can commit whatever outrage he pleases upon the property or persons of the colored man, with impunity, if he is cautious to commit it only in the presence of colored people; no difference if the white scoundrel has murdered the colored man's wife, and ravaged his house in his very presence, and in the presence of his sons and daughters, he can have no remedy by the laws of our State; not because he is not acknowledged as a *man*, but because He who holds the destinies of nations, as well as individuals in his hand, has made his skin black! The colored man's property is not unprotected because he does not contribute for the purpose of supporting our government, and the sustaining of our laws; the official records of our State prove that he pays taxes for these very purposes. It is not for the reason that he has not the same feelings, actuated by the same motives, and responsible to the same God, that the white man is—for his physiological and phrenological history, together with the word of God, prove him to be devoid of none of these—but the true *reason* and the only *reason* that can be given is, that he is "*guilty of a skin not colored like our own!*" The colored man may have given, during a great number of years, indisputable evidence of his devotion to truth and virtue—may have established an unquestioned reputation for veracity—yet he cannot testify where a white man is interested, while the most abandoned and degraded wretch wretch is permitted to testify, however much he may be celebrated for his total disregard of truth, if he has a white skin! A majority of your committee cannot believe for a moment, that the complexion of a man's face adds or detracts anything from his character for truth and veracity, and would preserve, by the repeal of these laws, "the ancient personified emblem of *Justice*, so often seen crowning her temples, from the degradation and pollution of removing the bandage from her eyes to discover the complexion of the humble petitioner in her court, and laying aside her even balances to dispense *colored justice*." Let our courts be open to *all men*, and leave to the discriminating intelligence of our judges and jurors to determine, from the character and credibility of witnesses, the proper weight

of their testimony. In the ordinance of 1787, it is declared that judicial proceedings shall be had according to the *course of the common law*; by this law, every man, whatever his grade, color, or condition, unless personally interested, infamous by crime, or an atheist, has the right to testify—and hence this portion of these laws is in violation of this ordinance, as well as the second section of the fourth article of the Constitution of the United States. One of the judges of the Supreme Court of this State declares, that in his long practice at the bar, he has never known an instance in which this part of these laws were enforced, but what injustice was done thereby. Injustice is not only done the colored, but the white man also. There are cases constantly occurring, in which the white man is the injured party by the operation of these laws.

There is one other law which may, and is properly denominated "*black*," which a majority of your committee deem it their duty to notice, viz: that law which deprives the colored population of the State of the benefit of the School Fund. It is declared in the ordinance of 1787, in the third article of said ordinance, that "religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education *shall forever be encouraged.*" On the 30th day of April, 1802, Congress, in pursuance of the principles asserted in the ordinance of 1787, passed an act declaring, "the following several tracts of land in the State of Ohio are hereby appropriated for the use of schools in that State, and shall, together with all the tracts of land heretofore appropriated for that purpose, be vested in the Legislature of that State, in trust, for the use aforesaid, and for no other use, intent or purpose whatever." These lands were appropriated for the express purpose of educating *all the youth* of the State, colored as well as white. The framers of our State constitution, feeling the necessity and importance of having all the people educated in a republican government, and impelled by a deep solicitude for the welfare of their country, and understanding fully that *education is the hope of our republic*, that no free government can exist long but by the intelligence and virtue of the people, and fearing that the time might come when their children would forget the instructions of their fathers and cease to reverence the principles that animated them when they laid the foundation of this government; they, therefore, declare in the twenty-fifth section, and eighth article, "that no law shall be passed to *prevent the poor* in the several counties in this State from an equal participation in the schools, academies, colleges and universities within this State, which are endowed, in whole or in part, from the revenue arising from donations made by the United States for the support of schools and colleges; and the doors of the said schools, academies and universities *shall be open for the reception of scholars, students and teachers of every grade, without any distinction or preference whatever*, contrary to the intent for which said donations were made." It was evidently the intention of the framers of our constitution, and this clause most clearly does give to all, without distinction, the benefit of our common school system. All laws which deprive the col-

ored population of our State of their proportion of the school fund, are, in the opinion of your committee, in direct violation of the constitution of our State and the ordinance of 1787, as well as the constitution of the United States. A majority of your committee are impressed with the belief, that on the Legislature of this State rests the vast responsibility of saying, whether the multitude of colored youth in our State, now debased by ignorance and vice, shall be supplied with the means of education, and their moral and intellectual nature developed, or shall be cast off from our sympathies and left to wander in moral and mental debasement and crime, with nothing to check the fury of passion or control their vicious propensities, without any thing to awaken their consciences to the influence of truth and direct them in their duties here, and point them to their eternal destiny hereafter. Your committee are fully convinced, that there is no safer and surer way to promote the interests of the State, the peace, happiness and safety of its citizens, than by the general diffusion of knowledge among all of its inhabitants, of whatever condition or color; let the means of education be placed within the reach of every child, however humble his condition or black his skin; let him be instructed in his duties as a member of society and a citizen of a free government; and let him be taught to regard the public welfare as of higher value than any personal interests to himself or any party, and let him feel responsible for the moral and political influence which he will be called on to exert, and our liberties are safe, and the great problem has been solved, that *man can be governed and yet be free.*

But it would be a work of supererogation to dwell on this subject longer; the bare reading of these enactments ought, in the opinion of a majority of your committee, to convince any man of their injustice and inequality, and of their entire inconsistency with the spirit and genius of our republican institutions, and, therefore, would conclude, hoping and trusting that this subject will receive such consideration and *action* from the Legislature as its importance demands. "There is no truth better established by the providence of God and the history of the world, than this: that all legislation which recognizes the equality of man, protects him from the oppression of selfishness and unjust power, and encourages the development of the noblest powers with which God has endowed him, will be crowned with the highest results of peace, happiness and prosperity; while every system of policy marked by partiality and injustice, and calculated to repress the generous aspirings of humanity, will be visited by a fearful retribution of tribulation and wrath."

All of which is respectfully submitted,

H. G. BLAKE,
A. J. BENNETT,
H. S. HORTON.

MINORITY REPORT.

Mr. Smith of *Hamilton*, from the minority of the select committee on the subject of certain laws making distinctions on account of color, made the following Report:

The undersigned, from the minority of the select committee appointed to consider certain petitions asking a repeal of the laws making distinctions on account of color, would respectfully report, that it is inexpedient to make any change in the black laws of the State.

W. S. SMITH.

MINORITY REPORT.

Mr. Russell of *Portage*, from the select committee on the subject of certain laws making distinctions on account of color, made the following Report, Jan. 4, 1847:

As one of the minority of the committee to which was referred the subject of the repeal of all laws making a distinction on account of color, I respectfully report, that I have bestowed a suitable degree of attention upon that subject, and regret the necessity which compels me to differ, in some respects, from both the majority and minority of the committee. But since an honest difference separates me in my conclusions from both, it remains for me only to present, for the consideration of the House, the grounds on which that difference is founded. I find, by reference to the past, that former Legislatures, whose wisdom I have no reason to doubt, considered it necessary to enact laws calculated to prohibit the introduction of people of color into Ohio. The causes which led to that necessity must be apparent to any one who has given the subject a patient and candid consideration. The sunken, degraded and miserable condition of the slave population of the southern States, and our proximity to those States, still makes it necessary to keep those laws, in a great degree, in force. If we were to repeal all laws on that subject, it appears to me that we not only open a wide door, but actually invite into our own State, all the old, worn out, helpless and cast off blacks of the slave States, and with them all the poverty, immorality and misery necessarily attendant upon a life of slavery. Still, while I am advocating

the continuance of those laws which I consider essentially necessary for the preservation of the rights of our own citizens, against the encroachments of those without, I am not willing to be considered unmindful of the wants and sufferings of that class of people who are, in a great degree, deprived of the advantages of many of our free institutions, and whose condition requires at our hands a modification of such laws as bear upon them with unnecessary severity.

These being my views on the foregoing subject, I report accordingly.

LUTHER RUSSELL.